



Rep. Daniel V. Beiser

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09700HB1041ham001

LRB097 03861 AEK 53626 a

1 AMENDMENT TO HOUSE BILL 1041

2 AMENDMENT NO. _____. Amend House Bill 1041 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Prevailing Wage Act is amended by changing
5 Sections 2 and 11 as follows:

6 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

7 Sec. 2. This Act applies to the wages of laborers,
8 mechanics and other workers employed in any public works, as
9 hereinafter defined, by any public body and to anyone under
10 contracts for public works. This includes any maintenance,
11 repair, assembly, or disassembly work performed on equipment
12 whether owned, leased, or rented.

13 As used in this Act, unless the context indicates
14 otherwise:

15 "Public works" means all fixed works constructed or
16 demolished by any public body, or paid for wholly or in part

1 out of public funds. "Public works" as defined herein includes
2 all projects financed in whole or in part with bonds, grants,
3 loans, or other funds made available by or through the State or
4 any of its political subdivisions, including but not limited
5 to: bonds issued under the Industrial Project Revenue Bond Act
6 (Article 11, Division 74 of the Illinois Municipal Code), the
7 Industrial Building Revenue Bond Act, the Illinois Finance
8 Authority Act, the Illinois Sports Facilities Authority Act, or
9 the Build Illinois Bond Act; loans or other funds made
10 available pursuant to the Build Illinois Act; or funds from the
11 Fund for Illinois' Future under Section 6z-47 of the State
12 Finance Act, funds for school construction under Section 5 of
13 the General Obligation Bond Act, funds authorized under Section
14 3 of the School Construction Bond Act, funds for school
15 infrastructure under Section 6z-45 of the State Finance Act,
16 and funds for transportation purposes under Section 4 of the
17 General Obligation Bond Act. "Public works" also includes (i)
18 all projects financed in whole or in part with funds from the
19 Department of Commerce and Economic Opportunity under the
20 Illinois Renewable Fuels Development Program Act for which
21 there is no project labor agreement and (ii) all work performed
22 pursuant to a public private agreement under the Public Private
23 Agreements for the Illiana Expressway Act. "Public works" also
24 includes all projects at leased facility property used for
25 airport purposes under Section 35 of the Local Government
26 Facility Lease Act. "Public works" also includes the

1 construction of a new wind power facility by a business
2 designated as a High Impact Business under Section 5.5(a)(3)(E)
3 of the Illinois Enterprise Zone Act. "Public works" does not
4 include work done directly by any public utility company,
5 whether or not done under public supervision or direction, or
6 paid for wholly or in part out of public funds. "Public works"
7 does not include projects undertaken by the owner at an
8 owner-occupied single-family residence or at an owner-occupied
9 unit of a multi-family residence.

10 "Construction" means all work on public works involving
11 laborers, workers or mechanics. This includes any maintenance,
12 repair, assembly, or disassembly work performed on equipment
13 whether owned, leased, or rented.

14 "Locality" means the county where the physical work upon
15 public works is performed, except (1) that if there is not
16 available in the county a sufficient number of competent
17 skilled laborers, workers and mechanics to construct the public
18 works efficiently and properly, "locality" includes any other
19 county nearest the one in which the work or construction is to
20 be performed and from which such persons may be obtained in
21 sufficient numbers to perform the work and (2) that, with
22 respect to contracts for highway work with the Department of
23 Transportation of this State, "locality" may at the discretion
24 of the Secretary of the Department of Transportation be
25 construed to include two or more adjacent counties from which
26 workers may be accessible for work on such construction.

1 "Public body" means the State or any officer, board or
2 commission of the State or any political subdivision or
3 department thereof, or any institution supported in whole or in
4 part by public funds, and includes every county, city, town,
5 village, township, school district, irrigation, utility,
6 reclamation improvement or other district and every other
7 political subdivision, district or municipality of the state
8 whether such political subdivision, municipality or district
9 operates under a special charter or not.

10 The terms "general prevailing rate of hourly wages",
11 "general prevailing rate of wages" or "prevailing rate of
12 wages" when used in this Act mean the hourly cash wages plus
13 fringe benefits for training and apprenticeship programs
14 approved by the U.S. Department of Labor, Bureau of
15 Apprenticeship and Training, health and welfare, insurance,
16 vacations and pensions paid generally, in the locality in which
17 the work is being performed, to employees engaged in work of a
18 similar character on public works.

19 "Entity" means any sole proprietor, partnership, firm,
20 corporation, limited liability company, association, or other
21 business enterprise; however, the term "entity" does not
22 include (i) the State of Illinois or its officers, agencies, or
23 political subdivisions or (ii) the federal government.

24 "Federal construction projects" means public works
25 contracted for directly by the federal government.

26 "Interested party" means a person or entity with an

1 interest in compliance with this Act.

2 (Source: P.A. 95-341, eff. 8-21-07; 96-28, eff. 7-1-09; 96-58,
3 eff. 1-1-10; 96-186, eff. 1-1-10; 96-913, eff. 6-9-10; 96-1000,
4 eff. 7-2-10.)

5 (820 ILCS 130/11) (from Ch. 48, par. 39s-11)

6 Sec. 11. No public works project shall be instituted unless
7 the provisions of this Act have been complied with. The
8 provisions of this Act shall not be applicable to Federal
9 construction projects which require a prevailing wage
10 determination by the United States Secretary of Labor. The
11 Illinois Department of Labor represented by the Attorney
12 General is empowered to sue for injunctive relief against the
13 awarding of any contract or the continuation of work under any
14 contract for public works at a time when the prevailing wage
15 prerequisites have not been met. Any contract for public works
16 awarded at a time when the prevailing wage prerequisites had
17 not been met shall be void as against public policy and the
18 contractor is prohibited from recovering any damages for the
19 voiding of the contract or pursuant to the terms of the
20 contract. The contractor is limited to a claim for amounts
21 actually paid for labor and materials supplied to the public
22 body. Where objections to a determination of the prevailing
23 rate of wages or a court action relative thereto is pending,
24 the public body shall not continue work on the project unless
25 sufficient funds are available to pay increased wages if such

1 are finally determined or unless the Department of Labor
2 certifies such determination of the prevailing rate of wages as
3 correct.

4 Any interested party ~~laborer, worker or mechanic employed~~
5 ~~by the contractor or by any sub contractor under him who is~~
6 ~~paid for his services in a sum less than the stipulated rates~~
7 ~~for work done under such contract,~~ shall have a right of action
8 for whatever difference there may be between the amount so
9 paid, and the rates provided by the contract together with
10 costs and such reasonable attorney's fees as shall be allowed
11 by the court. Such contractor or subcontractor shall also be
12 liable to the Department of Labor for 20% of such underpayments
13 and shall be additionally liable to the laborer, worker or
14 mechanic for punitive damages in the amount of 2% of the amount
15 of any such penalty to the State for underpayments for each
16 month following the date of payment during which such
17 underpayments remain unpaid. Where a second or subsequent
18 action to recover underpayments is brought against a contractor
19 or subcontractor and the contractor or subcontractor is found
20 liable for underpayments to any laborer, worker, or mechanic,
21 the contractor or subcontractor shall also be liable to the
22 Department of Labor for 50% of the underpayments payable as a
23 result of the second or subsequent action, and shall be
24 additionally liable for 5% of the amount of any such penalty to
25 the State for underpayments for each month following the date
26 of payment during which the underpayments remain unpaid. The

1 Department shall also have a right of action on behalf of any
2 individual who has a right of action under this Section. An
3 action brought to recover same shall be deemed to be a suit for
4 wages, and any and all judgments entered therein shall have the
5 same force and effect as other judgments for wages. At the
6 request of any laborer, workman or mechanic employed by the
7 contractor or by any subcontractor under him who is paid less
8 than the prevailing wage rate required by this Act, the
9 Department of Labor may take an assignment of such wage claim
10 in trust for the assigning laborer, workman or mechanic and may
11 bring any legal action necessary to collect such claim, and the
12 contractor or subcontractor shall be required to pay the costs
13 incurred in collecting such claim.

14 (Source: P.A. 94-488, eff. 1-1-06.)".